

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices
Priority Mail Contract 274 (MC2017-51)
Negotiated Service Agreements

Docket No. CP2017-77

PUBLIC REPRESENTATIVE COMMENTS ON USPS NOTICE OF CHANGE IN
PRICES PURSUANT TO AMENDMENT TO PRIORITY MAIL CONTRACT 274

(November 2, 2017)

INTRODUCTION

The Public Representative hereby provides comments pursuant to the Commission's notice initiating these dockets.¹ In this notice, the Commission established the above referenced docket to consider matters from interested persons, including the undersigned Public Representative, on the Postal Service's intent to amend Priority Mail Contract 274 on the grounds that the modified contract continues to meet the requirements of 39 U.S.C. § 3633.² The Second Notice of Amendment included redacted copies of the amendment (Second Amendment) and a Certification of Compliance with 39 U.S.C. § 3633 (Certification) as attachments. A redacted supporting financial model was filed separately as an Excel file. Unredacted versions of these documents were also filed under seal.

On December 27, 2016, the Commission issued Order No. 3701 approving the addition of Priority Mail Contract 274 to the competitive product list.³ In its analysis, the Commission found that the Contract met the requirements set forth in 39 U.S.C. § 3642 for classification as a competitive product. Order No. 3701 at 3-4. The Commission also found that the prices offered in the contract satisfied the requirements of 39 U.S.C.

¹ Notice Initiating Dockets for Recent Postal Service Negotiated Service Agreement Filings, November 1, 2017.

² USPS Notice of Change in Prices Pursuant to Amendment to Priority Mail Contract 274, October 31, 2017 (Second Notice of Amendment).

³ Order No. 3701, Order Adding Priority Mail Contract 274 to the Competitive Product List, December 27, 2017 (Order No. 3701).

§ 3633. *Id.* at 4-5. On March 27, 2017, the Postal Service issued a First Notice of Amendment⁴ which was subsequently approved by the Commission.⁵

The Second Amendment changes the prices offered under Priority Mail Contract 274 as contemplated by the contract's terms and will become effective two business days after the day on which the Commission completes its review. Second Notice of Amendment at 1.

COMMENTS

After reviewing the Postal Service's Second Notice of Amendment and the unredacted copies of the Second Amendment, Priority Mail Contract 274, Certification, and the supporting financial model that were filed under seal, the Public Representative finds that the amended Priority Mail Contract 274 continues to meet the requirements of cost coverage and product list requirements set forth in 39 U.S.C. § 3633 and 39 U.S.C. § 3642, respectively.

39 U.S.C. § 3642. The Public Representative agrees with the Commission's findings that Priority Mail Contract 274 satisfies the requirements for inclusion on the competitive product list. Order No. 3701 at 3-4. The Second Amendment does not alter the services the Postal Service provides under the contract. Hence, the amended Priority Mail Contract 274 is still a competitive product.

39 U.S.C. § 3633. Pursuant to 39 U.S.C. § 3633(a), the Postal Service must demonstrate that competitive product rates (1) do not result in market dominant products subsidizing competitive products, (2) ensure that each competitive product covers its attributable costs; and (3) enable competitive products as a whole to cover an appropriate share of the institutional costs of the Postal Service. The Public Representative agrees with the Commission's earlier finding that the original contract meets these requirements. *Id.* at 5. The Postal Service has certified that the amended contract will continue to comply with these requirements. Certification at 1. After reviewing the financial model filed under seal, the Public Representative agrees that the

⁴ Notice of United States Postal Service of Amendment to Priority Mail Contract 274, with Portions Filed under Seal, March 27, 2017 (First Notice of Amendment).

⁵ Order No. 3835, Order Approving Amendment to a Priority Mail Negotiated Service Agreement, March 29, 2017 (Order No. 3835).

prices offered under the amended contract will continue to satisfy the requirements of 39 U.S.C. § 3633 for the next year of the contract. The Postal Service has not provided evidence that the contract will continue to cover costs over the entire length of the contract, which is set to terminate on December 29, 2019. However, this concern is mitigated partially by terms of the contract that link the prices offered under the contract to the prevailing Priority Mail prices of general applicability, which should help facilitate cost coverage past the next year. In addition, the Commission has the opportunity to conduct an annual compliance review in its Annual Compliance Determination.

The Public Representative respectfully submits the foregoing comments for the Commission's consideration.

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